

TTAB3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE
THE TRADEMARK TRIAL AND APPEAL BOARD

EARTHFRESH FOODS CORP., F/K/A GEMINI
FOOD (1989) CORPORATION,

PETITIONER,

v.

PAULA T. LASKOWSKI,

REGISTRANT.

Registration No.
2187762

Mark: HONEY BUNNY
AND DESIGN

Cancellation No. 92042422

10-21-2003
U.S. Patent & TMO/TM Mail Rpt. Dt. #40

Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514

ANSWER

Dear Sir:

I, Paula T. Laskowski, as owner of the Honey Bunny mark and design with
Registration Number 2187762, respond to the allegations set forth in the Petition to
Cancel submitted by Earthfresh Foods Corp., f/k/a Gemini Food (1989)
Corporation as follows:

1. I have not abandoned the aforementioned mark. The mark has been used
continuously since September 21, 1997, the date of first use set forth in the
registration, and I continue to use the mark in commerce. As an indication
of my intent to continue use of the mark, I filed the Declaration of Use of
Mark in Commerce under Section 8 (PTO Form 1583, revised 4/2000) on

ANSWER

September 15, 2003, prior to receipt of the Petition to Cancel filed by the Petitioner, which was postmarked on September 24, 2003.

2. I believe no infringement upon the Petitioner's rights has occurred, since the Petitioner's mark(s) is/are used on goods classified within International Class 029, specifically carrots, and my mark is used in conjunction with goods contained within International Class 030, specifically honey, candy, and baked goods. It is my understanding that the International Schedule of Classes of Goods and Services establishes the scope of a party's rights in the relevant mark. Since my mark is not used on or in connection with the goods of the Petitioner, and since I believe my mark is inherently distinctive, I respectfully maintain that the date of first use set forth in my trademark registration accurately reflects first use of the mark in commerce.
3. The Petitioner's website at *www.geminifood.com* depicts two HONEY BUNNY marks used by the Petitioner in conjunction with carrots. If either of these marks represents the mark referenced in the Petition to Cancel, I believe my mark is inherently distinctive and readily discernible from the mark(s) used by the Petitioner. My mark is therefore not likely to cause confusion, or to cause mistake or to deceive.
4. In summary, I deny all allegations set forth in the Petition to Cancel.

ANSWER

Sincerely,

Dated: October 21, 2003

Paula T. Laskowski
Paula T. Laskowski
Registrant

3669 Pine Tree Court NE
Rochester, Minnesota 55906-2026
Telephone: (507) 285-5195

Certificate of Service

I hereby certify that a true and complete copy of the foregoing Answer has been served on Stephen B. Salai, Esq., of Harter, Secrest & Emery LLP by mailing said copy on October 21, 2003, via "Express Mail Post Office to Addressee" to:

Stephen B. Salai, Esq.

Harter, Secrest & Emery LLP

1600 Bausch & Lomb Place

Rochester, New York 14604-2711

Paula T. Laskowski
Paula T. Laskowski
Registrant